

Public Policies and the Tobacco Industry

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India has played a key role in drawing up the Framework Convention on Tobacco Control that was initiated by the World Health Organisation and the country has ratified it. Ironically, the government's Indian Tobacco Board is expected to promote Indian varieties of tobacco and the development of the tobacco industry. A draft code of conduct on the government's interaction with the tobacco industry is presented here for wider debate.

Smoking kills one million Indians every year¹ (Jha et al 2008) and makes many more ill. The national healthcare expenditure on tobacco use exceeds by around 16% the total revenue generated from tobacco (John et al 2009). The consumption expenditure on tobacco is crowding out the expenditure on essential food items at household level in the country (John 2008).

Understandably, governments in India have taken steps towards reducing tobacco consumption. Moving from district to statewide fragmented initiatives, India enacted a national legislation on tobacco control called the Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 (COTPA). India also played a key role in negotiating the first-ever global public health treaty, the Framework Convention on Tobacco Control (FCTC),² initiated by the World Health Organisation (WHO). It was among the first countries to fully ratify this convention in 2004. In 2007, the union ministry of health and family welfare launched a national programme on tobacco control.³ Yet shortcomings of this well-intended legislative and political commitments for tobacco control have become apparent both in terms of lacunae in the existing policy framework and poor implementation of the existing legislation (Reddy et al 2010).

The FCTC is the theme of this year's World No Tobacco Day.⁴ We would thus like to highlight and propose a way forward to address one specific issue plaguing tobacco control in India: the tobacco industry's interference in the formulation and/or implementation of tobacco control policies. We argue that such interference distorts public policies and leads to non-compliance of India's obligations under the FCTC.

India is the world's second largest producer and sixth largest exporter of tobacco

leaf (Shafey et al 2009). The production of manufactured tobacco also shows an increasing trend in the country (Reddy and Gupta 2004). In 1975, the Government of India established the Indian Tobacco Board (ITB) under the union ministry of commerce and industry to regulate the tobacco industry. The ITB's roles include the promotion of Indian varieties of tobacco and the development of the tobacco industry in the country (Government of India 1975). This pro-tobacco mandate of the ITB has remained unchanged since its inception in spite of more recent tobacco control commitments by India.⁵

Support to Tobacco

Intertwined in this conflict of interest are the many links between the tobacco industry and governments, including political parties. As on 31 March 2010, six out of the top-10 shareholders in the Indian Tobacco Company (ITC) – a subsidiary of the British American Tobacco and India's largest manufacturer of cigarettes – were government-owned companies, accounting for 33.19% of the total shareholdings (Indian Tobacco Company 2010). In fact, state and central governments had direct shareholdings in leading cigarette manufacturers including ITC (2010) and Godfrey Phillips India (2010). This apart, the ITB periodically sponsors tobacco industry events in the country.⁶ It also provides various welfare schemes, loans and subsidies for tobacco growers and sets minimum support prices for its sale.⁷ Taxes on tobacco products in India are generally low and are particularly low on bidis, with exemption of excise duty for small-scale manufacturers producing less than two million bidis a year (Sunley 2008). The Central Tobacco Research Institute at Rajahmundry with its various research stations that strive to enhance tobacco yield are financed by the Government of India.

Leading politicians and members of parliament (MPs) like Arun Jaitley (leader of opposition, Rajya Sabha) and Abhishek Manu Singhvi (national spokesperson of the Indian National Congress) have represented the tobacco industry (gutka manufacturers) in the Supreme Court (Shelar 2011; *The Financial Express* 2002; Venkatesan 2011). Some Indian politicians

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possess direct financial stakes in the tobacco industry: the current cabinet minister of heavy industries and public enterprises owns bidi factories worth crores of rupees and is referred to as the “bidi king” of Vidarbha (*The Economic Times* 2007). During the financial year 2009-10, IRC donated Rs 6.2 crore to seven major political parties in India (IRC 2010).

These direct and indirect links between the tobacco industry and governments and/or politicians can potentially lead to conflicts of interest for governments and provide opportunities for the tobacco industry to influence governments’ policies. The tobacco industry’s attempts to negatively influence tobacco control policies are not a new phenomenon and are well documented globally (Assunta and Chapman 2004a; Assunta and Chapman 2004b; Hiilamo 2003; Saloojee and Dagli 2000). A report on tobacco control in India released by the ministry of health and family welfare documents the industry’s tactics to

thwart the governments’ efforts on tobacco control (Reddy and Gupta 2004). More recently, Arora and Yadav (2010) documented how the tobacco industry systematically influenced implementation of pictorial warnings on tobacco product packets in India, leading to excessive delays and dilutions in policy formulation and implementation. It is thus logical to presume that the industry’s influence could be one of the factors responsible for overall dilution and poor implementation of various provisions of the COTPA.

The Way Forward

In order to protect tobacco control policies from the tobacco industry’s interference, we propose two levels of actions by governments. Firstly, governments need to resolve the inherent conflict of interest by abolishing the pro-tobacco mandate of the RTB. In fact, the RTB’s mandate to promote the tobacco industry is in contradiction to Section 5 of COTPA (contemporary

legislation). An interim order issued under a public interest litigation (PIL) (*Institute of Public Health vs Union of India and Others*) in the Karnataka High Court directed the RTB to withdraw its financial sponsorship to a global tobacco industry event and noted that “...(while) the board (RTB) can continue to promote the tobacco industry in other areas, but not related to human consumption of tobacco leading to affectation of the health of the general public” (The High Court of Karnataka 2010: 22). This will also mean that governments speed up the proposed measures to rehabilitate tobacco farmers including promotion of alternative crops.

Secondly, there is an imminent need for a policy that regulates governments’ dealings with the tobacco industry. In the PIL, the petitioners argued for the formulation and implementation – by the government – of a code of conduct for government officials and representatives that would govern their dealings with the tobacco industry. Subsequently, the court in its

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final order considered the petitioner's submission of a draft code of conduct. The counsel on behalf of the union of India submitted to consider such a draft "properly" while framing a similar policy. In fact, the FCTC recommends that governments should have such a code of conduct.

A draft code of conduct has been formulated by the Institute of Public Health (IPH)⁸ with inputs from other civil society organisations. The draft represents hurriedly formulated proposed policy guidelines, given the short timelines during litigation proceedings. It draws on the existing policy frameworks (FCTC, similar policies in the Philippines⁹ and Australia,¹⁰ the COTPA), scientific literature on the industry's interference on tobacco control policies, as well as the Indian context and experience with tobacco control. We now highlight salient features of the draft to initiate a discourse around the need and contents of such a policy framework in order to improve it. The full text of the draft is available on the IPH website.¹¹

Draft Code of Conduct

Scope: Such a policy shall cover employees and representatives of national, state, municipal, local or other public or semi/quasi/autonomous public institutions and elected representatives.

Raising Awareness: Public offices shall conduct sustained awareness raising activities about (1) the harmful and addictive nature of tobacco use; (2) the need to protect public health policies from the interference of the tobacco industry; and (3) the tobacco industry's practices of using individuals and front groups to act on its behalf.

Interactions with the Tobacco Industry: Public officials shall interact with the tobacco industry only when and to the extent strictly necessary to effectively regulate the industry. These shall be preferably conducted in public, be brief and governed by guidelines that mandate prior disclosure of agenda and participants, presence of lawyer to advise officials, recording of and public disclosure of proceedings. Any non-mediated and non-public interactions (in person, on phone, radio, email, internet, etc) shall be prohibited.

Partnerships and Contribution: Public offices shall not directly or indirectly accept, support or endorse (1) any partnerships or voluntary arrangements with the tobacco industry; (2) any initiatives directly or indirectly related to tobacco control organised, promoted or participated by the tobacco industry; and (3) any position paper or policies drafted by or in collaboration with industry. Public officials shall not accept any political, social, financial, educational or other contributions from the tobacco industry, on their own behalf, or of others regardless of value except for compensations due to legal settlements or mandated by law.

Conflicts of Interest: Applicants seeking public office positions shall be required to declare any current or previous occupational activities or interest within the tobacco industry, whether gainful or not. In case of such interest they shall not be appointed to public offices that deal with tobacco control. Public officials shall declare and divest themselves of any interest in the tobacco industry and declare any intention to engage with the tobacco industry within a specified time period after leaving public service. Public officials shall ensure that tobacco industry representatives are not made a part of any committee/group that deal with tobacco control.

Denormalising Industry's 'Socially Responsible' Activities: According to the WHO, corporate social responsibility by the tobacco industry is an inherent contradiction as the industry's core functions are in conflict with the goals of public health policies in respect to tobacco

control.¹² Public offices shall ensure that officials and public are aware of the true purpose and scope of so-called "socially responsible" activities of the tobacco industry. When public offices are approached or become aware of such activities, appropriate tobacco control authorities shall issue a public statement to expose them. The tobacco industry shall publicly disclose all activities described as socially responsible and the expenditures incurred.

Preferential Treatment to the Tobacco Industry: Public offices shall not grant any incentives, privileges or benefits to the tobacco industry to establish or run their businesses.

NOTES

- 1 This estimation is for adult Indians and for smoking only. To this have to be added the deaths in other age groups and those caused by alternative forms of tobacco consumption.
- 2 FCTC is the most widely adopted treaty in the history of United Nations with 172 countries as parties to the convention till date. It is a legally binding treaty that came in force on 27 February 2005. For more on FCTC see <http://www.who.int/fctc/en/>
- 3 See <http://mohfw.nic.in/index1.php?lang=1&level=2&sublinkid=671&lid=662>
- 4 Every year, 31 May is celebrated as World No Tobacco Day and the World Health Organisation decides a specific theme for each year. The 2011 theme is precisely the "Framework Convention on Tobacco Control". See more <http://www.who.int/tobacco/wntd/2011/announcement/en/index.html>
- 5 Section 5 of COTPA 2003 prohibits direct or indirect promotion of tobacco use. Hence promotion of tobacco by ITB is in contradiction with COTPA.
- 6 ITB supported the *World Tobacco India 2010* organised in April 2010 at Hyderabad to offer the international tobacco industry a forum to build relationships and demonstrate their products and services to Indian and Asian markets. ITB also proposed to sponsor Global Tobacco Networking Forum 2010, a networking event for the tobacco industry, organised in October 2010 in Bengaluru.
- 7 "Growers' Welfare Schemes", Tobacco Board viewed on 20 May 2011, <http://tobaccoboard.com/content/view/43/71/lang,english/>

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- 8 The Institute of Public Health is a Bengaluru-based non-profit organisation doing research, training and advocacy on public health issues. See www.iphindia.org
 - 9 We considered documents including (1) Joint memorandum circular No 2010-01 (Subject: Protection of the bureaucracy against tobacco industry interference) by Civil Service Commission, and Department of Health, Republic of the Philippines 2010; and (2) Department memorandum No 2010-0126 (Subject: Protection of the Department of Health, including all of its agencies, regional offices, bureaus or specialised/attached offices/units, against tobacco industry interference) by Office of Secretary, Department of Health, Republic of the Philippines, 2010.
 - 10 "Public Notification of Meetings between the Australian Government Department of Health and Ageing and the Tobacco Industry", Department of Health and Ageing, Government of Australia, viewed on 20 May 2011 at <http://www.health.gov.au/internet/main/publishing.nsf/Content/tobacco-conv-public>
 - 11 Draft code of conduct available at <http://www.iphindia.org/new/wp-content/uploads/2011/05/DRAFT-CODE-OF-CONDUCT-IPH-21.05.2011.pdf>
 - 12 Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry. See www.who.int/fctc/guidelines/article_5_3.pdf
- REFERENCES**
- Arora, M and A Yadav (2010): "Pictorial Health Warnings on Tobacco Products in India: Sociopolitical and Legal Developments", *The National Medical Journal of India*, 23(6): 357-59.
- Assunta, M and S Chapman (2004a): "The World's Most Hostile Environment": How the Tobacco Industry Circumvented Singapore's Advertising Ban", *Tobacco Control*, 13(2):ii51-ii57. Viewed on 20 May 2011 (<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1766159/>).
- (2004b): "A Mire of Highly Subjective and Ineffective Voluntary Guidelines: Tobacco Industry Efforts to Thwart Tobacco Control in Malaysia", *Tobacco Control*, 13(2):ii43-ii50. Viewed on 20 May 2011 (<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1766167/>).
- Godfrey Phillips India (2010): "Annual Report 2009-2010", viewed on 20 May 2011 (www.godfreyphillips.com/AnnualReport.html).
- Government of India (1975): Tobacco Board Act, 1975, viewed on 10 May 2011 (http://tobaccoboard.com/pdf/tb_board_act_1975.pdf).
- Hiilamo, H (2003): "Tobacco Industry Strategy to Undermine Tobacco Control in Finland", *Tobacco Control*, 12(4): 414-23.
- ITC (2010): "ITC Report and Accounts 2010", viewed on 20 May 2011 (www.itcportal.com/.../annual-reports/itc-annual-report-2010).
- Jha, P, B Jacob, V Gajalakshmi, P C Gupta, N Dhingra, R Kumar, et al (2008): "A Nationally Representative Case-control Study of Smoking and Death in India", *The New England Journal of Medicine*, 358(11):1137-47.
- John, R M, H Y Sung and W Max (2009): "Economic Cost of Tobacco Use in India, 2004", *Tobacco Control*, 18(2):138-43.
- John, R M (2008): "Crowding Out Effect of Tobacco Expenditure and Its Implications on Household Resource Allocation in India", *Social Science & Medicine*, 66: 1356-67.
- Reddy, K S and P C Gupta, ed. (2004): "Report on Tobacco Control in India", Ministry of Health and Family Welfare, Government of India, New Delhi, India.
- Reddy, K, M Arora, R Shrivastav, D Singh and A Bassi (2010): "Implementation of the Framework Convention on Tobacco Control (FCTC) in India: A Shadow Report 2010", Health Related Information and Dissemination Amongst Youth, New Delhi, India (www.hriday-shan.org/hriday/FCTC_SHADOW_REPORT_INDIA-2010.PDF).
- Saloojee, Y and E Dagli (2000): "Tobacco Industry Tactics for Resisting Public Policy on Health", *Bulletin of the World Health Organisation*, 78(7): 902-10.
- Shafey, O, M Eriksen, H Ross and J Mackay (2009): *The Tobacco Atlas 3rd ed.*, (Atlanta, Georgia, USA: American Cancer Society).
- Shelar, J (2011): "Cancer Survivors Write to Government, Say Jaitley, Singhvi Should Not Represent Tobacco Firms", *Mumbai Mirror*, viewed on 20 May 2011 (<http://www.mumbaimirror.com/index.aspx?page=article§id=2&contentid=20110412201104120521072651498ee3f>).
- Sunley, E M (2008): "India: The Tax Treatment of Bidis", New Delhi, India, viewed on 20 May 2011 (www.tobaccofreeunion.org/files/44.pdf).
- The Economic Times* (2007): "Business Reformer: Praful Patel", *The Economic Times*, viewed on 20 May 2011 (<http://economictimes.indiatimes.com/features/business-reformer-praful-patel/articleshow/2429987.cms>).
- The Financial Express* (2002): "SC Stays Ban on Gutka In UP", *The Financial Express*, viewed on 20 May 2011 (<http://www.financialexpress.com/news/sc-stays-ban-on-gutka-in-up/54163/#>).
- The High Court of Karnataka (2010): "Court Order (Writ petition No 27692 of 2010 GM-RES-PIL)", Bangalore, India.
- (2011): "Court Order (Writ petition No 27692/2010 GM-RES-PIL)", Bangalore, India.
- Venkatesan, J (2011): "Tobacco in Plastic Pouches: Supreme Court Rejects Plea", *The Hindu*, viewed on 20 May 2011 (<http://www.hindu.com/2010/11/19/stories/2010111952910500.htm>).

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